



**The Town of Amesbury**  
**IN THE YEAR TWO THOUSAND AND SIX**

**BILL No.                    2006 - 076**

**SPONSORED BY:** Alison M. Lindstrom

Councilor: District 6

*(Additional sponsors):* Michelle Thone

Councilor: District 1

**At the meeting of the Amesbury Municipal Council held on October 30, 2006 in the Town Hall Auditorium the following action was taken:**

**AMEND ARTICLE 40 AMESBURY BYLAWS**

Be it enacted by the Municipal Council assembled, and by the authority of the same to amend Article 40 of the Amesbury Bylaws as follows:

**Article 40 – Building Demolition By-Law**

**40.1 Intent and Purpose**

This By-Law is adopted for the purpose of preserving and protecting significant buildings or structures within in the Town which constitute or reflect distinctive features of the architectural, cultural, political, economic or social history of the Town; to resist and restrain environmental influences adverse to this purpose; to encourage owners of preferably-preserved significant buildings or structures to seek out persons who might be willing to purchase and to preserve, rehabilitate, or restore such buildings or structures, rather than demolish them; and by furthering these purposes to promote the public welfare, to preserve the resources of the Town, and to make the Town a more attractive and desirable place in which to live. To achieve these purposes, the Amesbury Historical Commission is empowered to advise the Amesbury Building Inspector with respect to the issuance of permits for demolition, and the issuance of demolition permits for significant buildings and structures is regulated as provided in this By-Law.

**40.2 Definitions.**

The following terms when used whether or not capitalized in this By-Law, shall have the meanings set forth below, unless the context otherwise requires:

**40.2.1 “Building** – A combination of any materials, having a roof, and enclosed within exterior walls or fire walls, built to form a structure for the shelter of persons, animals or property.

**40.2.2 Structure** – A combination of materials assembled at a fixed location to give support or shelter, such as a building, bridge, trestle, tower, framework, retaining wall, or the like.

**40.2.3 “Historically Significant Building or Structure”** – any building or structure within the Town which is in whole or in part seventy-five or more years old and one or more of the following:

(a) which is within any historic district; or

(b) which is listed on or is within an area listed on, the National Register of Historic Places, or which is the subject of a pending application for listing on said National Register; or

c) which is or has been designated by the Commission to be a significant building or structure either:

(i) is importantly associated with one or more historic persons or events, or with the broad architectural, cultural, political, economic, or social history of the Town or the Commonwealth, or

(ii) is historically or architecturally significant (in terms of period, style, method of building construction, or association with a famous architect or builder) either by itself or in the context of a group of buildings.

d) which is included in Amesbury's Comprehensive Historic Resource Inventory

**40.2.4 "Preferably-Preserved"** – any significant building or structure which the commission determines, as provided in (Section 3) of this By-Law that is in the public interest to be preserved or rehabilitated rather than to be demolished.

**40.2.5 "Commission"** – the Amesbury Historical Commission

**40.2.6 "Commission Staff"** – the Chairman of the Commission, the person performing the functions of the chairman in the event there is no person with the title of chairman as such, or any other person regularly providing staff services for the Commission to whom the Commission has delegated authority to act as commission staff under this By-Law.

**40.2.7 "Determination"** – any determination contemplated in (Section 3) of this By-Law made by the Commission or the commission staff.

**40.2.8 "Building Inspector"** – the person occupying the office of Inspector of Buildings or otherwise authorized to issue demolition permits.

**40.2.9 "Application"** – an application for a permit for the demolition of a building or structure.

**40.2.10 "Permit"** – a permit issued by the Building Inspector for demolition of a building or structure pursuant to an application therefor.

**40.2.11 "Demolition"** – the act of pulling down, destroying, removing, or razing a building or structure, or commencing the work of total or substantial destruction with the intent of completing the same. Demolition also includes any of the following actions when visible from a public way: removal of a roof or removal of one or more sides of a building or structure. Demolition does not include the removal of a roof or one or more sides of a building or structure if it is to be replaced in kind, subject to all other applicable codes and regulations.

**40.2.12 "Historic District"** – any existing or pending National Register District, or local historic district that may from time to time have been established by By-Law.

**40.2.13 "Essential Services"** – those services/utilities which have been in place in a building, including but not limited to: electric, gas, water, sprinkler systems, fire alarm, smoke alarm, fire panel.

## **40.3 Procedure**

### **40.3.1 Demolition Permit Application**

The building inspector shall forward a copy of each demolition permit application for a building or structure that is more than seventy-five (75) years old to the Commission within five (5) business days of the filing of such application. A request for demolition of a building must be submitted, received and approved by the Commission before any essential services to said building may be discontinued and/or shut off.

### **40.3.2 Determination as to 'Historical Significance'**

Within sixty (60) days from its receipt of a demolition permit application, the Commission shall determine whether the building or structure is historically significant. The applicant for the permit shall be entitled to make a presentation to the Commission if he or she so chooses. If the Commission determines that the building or structure is not historically significant, the Commission shall so notify the Building Inspector in writing and the Building Inspector may issue a demolition permit. If the Commission determines that the building or structure is historically significant, the Commission shall notify the Building Inspector in writing that a demolition review must be made prior to the issuance of any demolition permit. If the Commission fails to notify the Building Inspector of its determination within sixty (60) days of its receipt of the application, then the building or structure shall be deemed not historically significant and the Building Inspector may issue a demolition permit.

### **40.3.3 Demolition Review Package**

#### **(a) Demolition Review Package Requirements**

Not more than sixty (60) days after the Commission's determination that a building or structure is historically significant, the applicant for the permit shall submit to the Commission ten (10) copies of a demolition review package which shall include all the following information:

- (i)** A map at to scale showing the location of the building or structure to be demolished on its property including footprint of that building or structure and property boundaries (eg. Assessors map);
- (ii)** 4" x 6" or larger photographs of all sides of the exterior of the building or structure. Surrounding areas and any deterioration should also be documented via photographs;
- (iii)** A description of the building or structure, or part thereof, to be demolished to the extent known by the applicant this may include information on the period, architectural style, method of building construction, association with a reputed architect or builder, important associations with one or more historic persons or events, or with the broad architectural, cultural, political, economic or social history of the Town or the Commonwealth of Massachusetts;
- (iv)** The reason for the proposed demolition and data supporting said reason, including where applicable data sufficient to establish any economic justification for demolition;
- (v)** A brief description of the proposed reuse of the property on which the building or structure to be demolished is located.

(vi) Plans for site improvements and if a new structure is being planned, preliminary plans and elevations of the new structure;

(vii) Depending on the scope of the project, additional materials may also be requested for the hearing as follows:

1. Structural analysis report prepared by a Massachusetts Licensed Structural Engineer;
2. Other materials that may help the Commission evaluate whether the property is subject to delay.

**(b) Public Hearing and Public Notice**

Upon receipt of the demolition review package referenced in Section 40.3.3(a), the Commission shall fix a reasonable time for a public hearing on the application within sixty-five (65) days from receipt of the demolition review package. At least twenty-eight (28) days before said hearing, the Commission shall give notice thereof to applicant in writing, including the time, place and purpose of the hearing

**(i) Notification of Abutters**

Not less than fourteen (14) days prior to said hearing, the applicant shall send copy of said notice by certified mail to the owners of all abutting property at their mailing addresses shown in the most recent applicable tax list of the assessors, including owners of land directly opposite on any public or private street or way, and abutters to the abutters within 300 feet of the property line of the applicant, including any in another municipality or across a body of water, and to such other persons as the Commission shall deem entitled to notice.

**(ii) Publication of Notice**

The applicant shall provide said notice to a newspaper of general circulation in the municipality, to be published as a legal notice at least fourteen (14) days, and again (7) days prior to public hearing.

Certified mail receipts and newspaper tearsheet including date of publication shall be turned in to the Commission by the applicant prior to the opening of the public hearing. All costs associated with publication of legal notice and required mailings shall be the responsibility of the applicant. Failure to comply with any of the above will result in a delay of the public hearing.

**(c) Timeline for Determination**

The Commission shall have ninety (90) days from the opening of public hearing to make its decision. During this period, the Commission may request comment from other town boards, committees, or individuals as appropriate. The Commission shall file, within fifteen (15) days from the close of the said public hearing, a written report with the Building Inspector which shall include the following:

- (i) A description of the age, architectural style, historical associations and importance of the building or structure to be demolished;
- (ii) A determination as to whether or not the building or structure should be preferably preserved.

**(d) Finding of building or structure to be ‘Preferably Preserved’**

If the building or structure is determined to be preferably preserved following the demolition plan review, then the Building Inspector shall not issue a demolition plan permit for a period of eighteen (18) months from the date the Commission’s report is filed with the Building Inspector unless the Commission informs the Building Inspector prior to the expiration of such eighteen (18) month period that the Commission is satisfied that the applicant for the demolition permit has made a bona fide, reasonable and unsuccessful effort to locate a purchaser for the building or structure who is willing to preserve, rehabilitate or restore the building or structure, or has agreed to accept a demolition permit on specified conditions approved by the Commission. If no such agreement has been made, after the eighteen (18) month period has passed the demolition permit shall be issued, provided that all plans for proposed use of the site after demolition have been found to comply with applicable laws and all permits and approvals for the development have been obtained. Notwithstanding the foregoing language contained in this sub-section 40.3.3 (d), if the demolition involves the removal of a roof, or one or more sides of a building or structure, not to be replaced in kind, the maximum length of the demolition delay shall not exceed a period of (12) twelve months from the date that the Applicant has submitted an application for a permit for such demolition.

**40.4 Demolition Permit Expiration**

The demolition permit shall expire after twenty-four (24) months of being issued. This means that once the above conditions have been satisfied, the owner of the property has twenty-four (24) months to demolish the building or structure. If the building or structure is not taken down in that period, the owner shall submit a new demolition permit application for Commission review.

**40.5 Emergency Demolition**

If a building or structure poses an immediate threat to public health or safety due to its deteriorated condition, the owner of such building or structure may request issuance of an emergency demolition permit from the Building Inspector. As soon as practicable after receipt of such request, the Building Inspector shall arrange to have the property inspected by a board consisting of himself or his designee; the Town Engineer or his designee; the Chairman of the Commission or his designee; and one (1) disinterested person chosen by the Building Inspector. After inspection of the building or structure and consultation with the other members of the board, the Building Inspector shall determine whether the condition of the building or structure represents a serious and imminent threat to public health and safety and whether there is any reasonable alternative to the immediate demolition of the building or structure which would protect public health and safety. If the Building Inspector finds that the condition of the building or structure poses a serious and imminent threat to public health and safety and that there is no reasonable alternative to the immediate demolition of the building or structure, then the Building Inspector may issue an emergency demolition permit to the owner of the building or structure. Whenever the Building Inspector issues an emergency demolition permit, he shall prepare a written report describing the condition of the building or structure and the basis of his decision to issue an emergency demolition permit. A copy of this written report shall be filed with the Commission.

**40.6 Enforcement and Remedies**

**40.6.1 Enforcement:** The Commission and/or Building Inspector are each specifically authorized to institute all actions and proceedings, in law or in equity, as they may deem necessary and appropriate to obtain compliance with the requirements of this By-Law or to prevent a threatened violation thereof.

**40.6.2 Building Permit to be Withheld:** No building permit shall be issued with respect to any premises upon which a building or structure that is included in Amesbury’s *Comprehensive historic Resource*

*Inventory* or is seventy-five (75) years or more old has been voluntarily demolished otherwise than pursuant to a demolition permit granted after compliance with the provisions of this By-Law for a period of two years after the date of the completion of such demolition. As used herein "premises" refers to the parcel of land upon which the demolished building or structure was located and all adjoining parcels of land under which the demolished building or structure was located and all adjoining parcels of land under common ownership or control.

**40.6.3 Severability:** In case any section, paragraph, or part of this By-Law be for any reason declared invalid or unconstitutional by any court of competent jurisdiction, every other section, paragraph and part shall continue in full force and effect.

Councilor Thone moved to readopt 2006-076 thereby overriding the Mayor's veto. Councilor McClure seconded. Roll Call Vote - 8-Yes, 1-No, King

Witness my hand and seal for the Town of Amesbury this                      day of

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Town Clerk